

***Visit us on the Internet***

*<https://ui.nv.gov>*

*or*

*[www.NevadaJobConnect.com](http://www.NevadaJobConnect.com)*

**Questions regarding benefit payments or claim status must be directed to your Telephone Claim Center:**

Northern Nevada	(775) 684-0350
Southern Nevada	(702) 486-0350
Long Distance or Interstate	(888) 890-8211

- An equal opportunity employer/program.
- Auxiliary aids and services are available upon request for individuals with disabilities. Anyone requiring special accommodations should immediately call the Appeals Office.
- Nevada Relay 711 or (800) 326-6888

**Unemployment  
Insurance  
Appeals**



**OFFICE OF APPEALS**

**2800 E St Louis Avenue  
Las Vegas, Nevada 891074**

**Telephone: (702) 486-7933  
Toll-Free: (866) 626-0629  
Fax: (702) 486-7949**

**Web Site: <https://ui.nv.gov>**

**STATE OF NEVADA  
DEPARTMENT OF EMPLOYMENT,  
TRAINING & REHABILITATION  
EMPLOYMENT SECURITY DIVISION**

## **Why is an Unemployment Insurance appeal hearing important to me?**

The appeals process is designed to provide a fair and impartial hearing to further examine a claim for Unemployment Insurance benefits. The information in this handbook explains the hearing process and the steps you can take to make certain your appeal is as complete as possible. Claimants may appeal decisions if their benefits have been denied or if they must repay any benefits they received. An employer may appeal decisions made by the division if benefits are being paid to an employee who has quit or was fired for misconduct, refused work, or if some penalty has been assessed against them. As a matter of law, the Claims Division has the legal right to appeal any Referee or Board of Review decision.

An additional explanation of appeal rights is available in the “*Appeals Handbook*” on the Internet at the two sites listed on the back of the brochure.

## **What happens after an appeal is filed?**

After an appeal is filed, an impartial Appeals Referee employed by the Employment Security Division (ESD) will conduct a hearing. The claimant must continue to file timely weekly claim for unemployment benefits in order to receive payments if the appeal is decided in their favor.

## **Hearing Date**

The most important thing is that you participate in the hearing, whether you are appearing in person or by telephone. The *Notice of Hearing* letter gives you the method, date, time, and place of the hearing. Make certain to read the notice instructions carefully and if an interpreter is needed, contact the appeals office immediately.

In order to efficiently and effectively handle appeals, hearings will frequently be held by telephone. Additionally, telephone hearings are provided for parties who live beyond reasonable commuting distance to the appeals office. If you would like to change the assigned hearing method, you must contact the appeals office and

provide the necessity for the change. If you cannot attend the hearing on the scheduled date, immediately call the appeals office. If you can demonstrate a compelling reason for not being able to attend your hearing, the hearing can be postponed. In certain situations, you may be required to submit documentation to substantiate your request for a postponement.

You will have the opportunity to review your appeal file (packet) once your appeal hearing has been scheduled. To view the appeal packet go to the Unemployment Insurance website [www.ui.nv.gov](http://www.ui.nv.gov), login to your account and select the Appeal Information option. A link for the Marked Appeal Packet will be displayed for you to view the appeal packet. If you are an out of state employer, the appeal file will be sent to you with the Notice of Hearing letter. If you do not have access to the website and participating in person, it is recommended that you arrive prior to the hearing date/time to review the appeal packet.

The referee has several hearings scheduled each day and cannot delay the schedule if you arrive late or fail to respond to the telephone call. If you are the appellant (the party who filed the appeal) and you do not appear, the hearing will be dismissed. If the employer has appealed the claimant’s benefit eligibility, it is in the claimant’s best interest to participate in the hearing. Please note that if the benefit eligibility is reversed, the claimant may be liable to repay all the benefits previously received.

## **The Hearing**

The hearing is similar to a court hearing and provides the changes for both parties to explain the specific circumstances that led to the separation of employment. Most often, the claimant and the former employer are present at the hearing at the same time.

Although most people represent themselves at the hearing, anyone can have an attorney, union representative, or other individual represent them, including a family member or friend, at their own cost. The appeal procedure within ESD is designed to allow people to present their appeal without the aid of an attorney. However, if a party wishes to have an attorney or a representative assist them

during the administrative process, contact the agencies listed below. ESD does not represent or warrant that any of the agencies listed will take your case, and does not make any representation regarding the type or quality of legal services, which may be provided.

The following agencies have requested that ESD list their names and numbers. There may be other agencies or offices, not listed here, which are willing to provide low-cost legal services to you.

### **NEVADA LEGAL SERVICES**

**CLARK COUNTY: (702) 386-0404**  
**WASHOE COUNTY: (775) 284-3491**  
**TOLL FREE: (866) 432-0404**

### **RURAL COUNTIES – NEVADA LEGAL SERVICES**

**CARSON CITY: (775) 883-0404**  
**ELKO: (775) 753-5880**  
**TOLL FREE: (800) 323-8666**

Referrals to attorneys who charge for their services may be obtained through the Nevada State Bar Lawyer Referral and Information Service:

**LAS VEGAS: (702) 382-0504**  
**TOLL FREE: (800) 789-5747**

### **Documentation**

At least 48 hours prior to the hearing: Submit any additional evidence you intend to provide, to both the appeals office and the opposing party. Both parties should research the law and review all information available from ESD that pertains to the issues in the case. Make a checklist of facts that need to be covered during the hearing. Both parties will also have the opportunity to cross-examine witnesses and documents that may be introduced at the hearing.

Hearsay is admissible as evidence. Hearsay may include written statements, reports made to investigators, and other documents. Hearsay may also include verbal testimony by a sworn witness about things that the witness was told about the incident or situation leading to the separation from employment. The referee is authorized by law to determine what weight hearsay evidence will be given.

If you are the employer, an individual with direct knowledge of the case should participate in the hearing. The person representing and testifying for your business should be the supervisor of someone who saw and heard what happened to cause the separation. If you are a claimant, have a witness to key events participate in the hearing. Character witnesses are not necessary. The referee will stop repetitive testimony, so it is not necessary to have several witnesses merely to give the same testimony. Go over the witnesses' expected testimony with them before the hearing.

### **Witness & Subpoenas**

Both parties are solely responsible for arranging for any witnesses to be present at the hearing. If a witness refuses to appear, during the hearing a request can be made to the referee to issue a subpoena. For a subpoena to be issued it must be established that the witnesses' testimony is necessary for the hearing, and that the person has refused to appear voluntarily.

Select witnesses' with firsthand knowledge: A person, who saw, heard or participated in the event. A witness with firsthand information is considered more reliable than a person who heard about the event from someone else.

### **Will there be a record?**

The entire proceeding will be recorded by the referee. No other recording is permitted. Transcripts are not made available unless ordered by the district court. However, parties involved in the hearing may have access to the record if there is further appeal. This record cannot be used for any other litigation.

### **What happens at the hearing?**

At the beginning of the hearing, the referee will present a concise explanation of the issues to be covered and the procedures to be followed. The scope of the hearing generally will be restricted to issues identified in the notice of hearing. If new issues arise, the Appeals Referee may offer a new notice and the opportunity to request to other issues, or ask the parties to waive a new notice and proceed.

The Appeals Referee has the power to judge the “credibility” of the witnesses. The Appeals Referee may, by examining prior statements or conduct, etc., make a judgment as to whether a witness is telling the truth. If there is testimony that is contradictory, and there is no reason to believe one party over the other, an Appeals Referee may decide the case based upon who has the “burden of proof” at the hearing.

When the claimant quits their job, the claimant will testify first. The claimant must show good cause for quitting their job, and must prove this by the greater weight of the evidence. If the claimant was discharged, and the employer alleges that the claimant is guilty of misconduct, then the employer has the burden of proof and will testify first. The Appeals Referee has the responsibility to bring out the evidence by examining witnesses in a logical and orderly fashion. All participants in the hearing must testify under oath, and witnesses are not normally allowed to hear the testimony of other witnesses. The Appeals Referee will also allow each of the parties or their authorized agents the opportunity to examine their own witnesses and to cross-examine opposing witnesses. The Appeals Referee may exclude undue repetition of testimony and avoid the unnecessary interruption or recall of witnesses.

Formal rules of evidence do not apply at the hearing. The Appeals Referee may allow evidence to be entered that could not be admitted in a formal court proceeding. For example, hearsay testimony may be admitted. On the other hand, the Referee must base factual findings in the case on “substantial evidence”.

Before the hearing is closed, the parties will have the opportunity to add new testimony and to make a closing statement. Most

Hearings take between thirty and ninety minutes, although some are longer. Minor children are not allowed at the hearing.

### **The Referee’s decision and appeal to the Board of Review**

After the hearing, the Appeals Referee issues a written decision, which will include findings of fact and conclusions of law, separately stated and based on the evidence presented before and during the hearing. Usually, the Appeals Referee’s decision will be issued within two-three weeks of the hearing. Claimants who are unemployed must continue to file weekly claims while waiting for the decision. The Appeals Referee’s decision can be appealed to the Board of Review, which must be filed within 11 days after the decision is mailed. Instructions for appealing to the Board of Review can be found in your “*Nevada Unemployment Insurance Facts for Claimants*” Handbook or the department’s web site.

### **Withdrawals**

Anyone who has filed an appeal can withdraw the appeal by advising the Appeals Referee in writing that a withdrawal is desired. The Appeals Referee may refuse withdrawal requests if they believe the appellant has been pressured.